

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT of TEXAS
SAN ANTONIO DIVISION**

Filed 2/7/12
Clerk, U. S. District Court
Western District of Texas
By [Signature]
Deputy

UNITED STATES of AMERICA,

Plaintiff

v.

BERNEL RUIZ,

Defendant

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**Criminal Case
No. SA-1-CR-138-OG**

ORDER

Defendant Bernel Ruiz' Motion to Proceed In Forma Pauperis (Docket Entry # 80) to appeal this Court's Orders denying his Petition Pursuant to the All Writs Act, 28 U.S.C. § 1651, for Relief from Judgment and his Motion to Alter or Amend is **DENIED** for the reasons stated in this Court's Orders (*see* Entries ## 70 & 72). Furthermore, construing the Petition for Relief from Judgment (Entry # 69) as a motion for relief from this Court's 2005 denial of his 28 U.S.C. § 2255 Motion to Vacate, the motion fails to identify an error of law or fact or other grounds warranting a new trial or amendment of judgment pursuant to Fed. R. Civ. P. 59 or relief from judgment pursuant to Fed. R. Civ. P. 60(b). Moreover, construed as a motion for relief from this Court's denial of his § 2255 motion, the motion for relief is untimely. *See* Fed. R. Civ. P. 60(c)(1). Defendant failed to demonstrate a "good faith" non-frivolous issue on appeal as required by 28 U.S.C. § 1915(a)(3) for leave to proceed in forma pauperis. *See Coppedge v. U.S.*, 369 U.S. 438, 445, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962); *U.S. v. Boutwell*, 896 F. 2d 884, 889 (5th Cir. 1990).

SIGNED on February 7, 2012.

Nancy Stein Nowak

NANCY STEIN NOWAK
UNITED STATES MAGISTRATE JUDGE